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**From:** Amato, Paul [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=13B29B5DF12F425E833B66385FDA9969-PAMATO]  
**Sent:** 3/24/2017 4:53:56 PM  
**To:** Zito, Kelly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=77b35bcb5354401dbc1c29cd98fb97fa-KZITO]  
**CC:** Goforth, Kathleen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0821ccf0ea9e4c18a3d2a583158b713e-KGOFORTH]; Brush, Jason [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ade1a32824404ed5a333dcd77f2dfc4a-JBRUSH]  
**Subject:** RE: Rosemont hot topic paper - question

Hi Kelly, minor edit.

**July 2016: USACE Los Angeles District's recommended denial of the CWA 404 permit was elevated to the USACE South Pacific Division as required by regulation following then-Gov. Jan Brewer's letter in support of the project.**

Paul F. Amato  
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**From:** Zito, Kelly  
**Sent:** Friday, March 24, 2017 9:46 AM  
**To:** Brush, Jason <Brush.Jason@epa.gov>  
**Cc:** Goforth, Kathleen <Goforth.Kathleen@epa.gov>; Amato, Paul <Amato.Paul@epa.gov>  
**Subject:** RE: Rosemont hot topic paper - question

Thanks for the info!

I'm trying to keep this pretty succinct, so is it accurate to say (I don't know how to make that section symbol!) this?  
Please edit as needed.

## Deliberative Process / Ex. 5

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**From:** Brush, Jason  
**Sent:** Thursday, March 23, 2017 6:14 PM  
**To:** Zito, Kelly <ZITO.KELLY@EPA.GOV>  
**Cc:** Goforth, Kathleen <Goforth.Kathleen@epa.gov>; Amato, Paul <Amato.Paul@epa.gov>  
**Subject:** FW: Rosemont hot topic paper - question

Kelly – Kathy's exactly right. In March 2014, Governor Brewer wrote to the Corps District in support of the project, and cited the little-known Corps regulation demonstrating that, when a governor weighs in in this way, any District denial is automatically held in abeyance and referred to the Division Commander to "resolve."

**Jason A. Brush**

**Acting Assistant Director, Water Division**

**U.S. Environmental Protection Agency, Region 9**

**75 Hawthorne Street (WTR-2)**

**San Francisco, CA 94105**

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**desk: 415.972.3483**

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**From:** Goforth, Kathleen  
**Sent:** Thursday, March 23, 2017 3:11 PM  
**To:** Zito, Kelly <[ZITO.KELLY@EPA.GOV](mailto:ZITO.KELLY@EPA.GOV)>; Amato, Paul <[Amato.Paul@epa.gov](mailto:Amato.Paul@epa.gov)>  
**Cc:** Geselbracht, Jeanne <[Geselbracht.Jeanne@epa.gov](mailto:Geselbracht.Jeanne@epa.gov)>  
**Subject:** RE: Rosemont hot topic paper - question

Hi, Kelly –

That's a question for the Wetlands folks since it pertains to the CWA §404 permit. I think it has to do with a statement by the Governor about the project being in the public/state's interest. Paul, can you confirm and have Rob or Liz provide an appropriate sentence for Kelly to include in the paper?

-Kathy

Kathleen Martyn Goforth, Manager  
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**From:** Zito, Kelly  
**Sent:** Wednesday, March 22, 2017 2:55 PM  
**To:** Goforth, Kathleen <[Goforth.Kathleen@epa.gov](mailto:Goforth.Kathleen@epa.gov)>  
**Subject:** Rosemont hot topic paper - question

Hi Kathy – Bill K and I are editing the hot topic one pagers, and Alexis has an edit that I can't address. It's in red below. Can you write up a sentence and send it back to me?

Many thanks!

Kelly

- Timeline:
  - February 2012: EPA rated the USFS' draft EIS as *Environmentally Unsatisfactory – Inadequate* (EU-3), and identified the §404 permit as a candidate for USACE HQ review.
  - December 2013: Based on review of USFS' Final EIS, which did not resolve the EU issues, EPA made a preliminary determination that USFS' proposed action warranted referral to CEQ. At EPA's request, USFS suspended the referral deadline and CEQ convened interagency calls to try to resolve issues and avoid referral. Numerous revisions by Huiday of its mitigation proposal to USACE delayed resolution and raised new issues.
  - Spring 2016: CEQ suspended the interagency calls pending completion of a revised Biological Opinion by US Fish & Wildlife Service and a USACE §404 permit decision.
  - July 2016: USACE Los Angeles District's draft denial of the §404 permit was elevated to the USACE South Pacific Division (SPD). (explain why division is decision maker)

March 2017: USFS awaits USACE SPD's decision before finalizing its Record of Decision on the mine plan of operations, and verbally committed to seek EPA's agreement on conditions of approval. The most critical issues underpinning EPA's EU rating remain unresolved.

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**Kelly Zito**

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